

The complaint

Mr C complains about the service from British Gas Insurance Limited (British Gas) under a protection policy for his fridge freezer.

References to British Gas include their agents who administer policies and carry out services under policies.

What happened

Mr C had a protection policy covering breakdown and repairs to his boiler, controls and central heating and kitchen appliance cover. This included cover for a fridge freezer, amongst other appliances, from 2001. In February 2024 he had a problem with the fridge freezer, so he called British Gas, who sent out an engineer. The engineer wasn't able to fix the problem but said the fridge freezer was a commercial appliance and as such wouldn't be covered under the policy.

Mr C challenged this view, saying it wasn't a commercial appliance (the brochure showed it in a domestic setting) and it used domestic gas supply. He also said the appliance had been covered for many years. Mr C said the engineer told him he should claim back the premiums he'd paid under the policy since it was first covered.

British Gas said they'd previously told Mr C in 2018 (and again in 2020) they wouldn't cover the appliance, but Mr C added it back onto cover in June 2022, when he took out a new policy after his previous policy lapsed. British Gas refunded £71.64, being the cost of cover for the fridge freezer for the policy years 2022-23 and 2023-24.

Mr C wasn't happy with British Gas's response, so he complained. He said he wanted a refund of all the payments he'd made under the policy for the fridge freezer back to 2001. As the fridge freezer was the most valuable appliance covered under the policy, he thought at least half of the annual premiums should be refunded for each year of cover (adjusted for inflation over the period). He also wanted compensation for defrosted food he said had been spoilt by the engineer turning on the [faulty] fridge section of the appliance, causing hot air to seep through into the freezer compartment.

In their final response, British Gas referred to the engineer visit in February 2024 where Mr C was told they wouldn't carry out any work as the fridge freezer was considered a commercial appliance. British Gas also referred to an earlier final response they issued in 2020 stating the fridge freezer wasn't covered under the policy at that time (being removed in 2018). While Mr C had provided evidence of premiums he'd paid under the policy in the years before 2018, British Gas said legislation prevented them considering premiums paid before 2018. British Gas also referred to their refund for the period from 2022 to 2024 which they issued a cheque. They also referred to the policy terms and conditions excluding commercial appliances. On the issue of defrosted food, British Gas said they weren't able to compensate Mr C, it would be something he would have to pursue under his home insurance policy.

Mr C then complained to this Service. He was unhappy at British Gas's offer and wanted refund of all the payments he'd made under his policy between May 2001 and 2018, when he'd been told his fridge freezer wasn't covered.

When providing their business file during the course of our Service investigating the complaint, British Gas said their records indicated they had carried out repairs to the fridge freezer in 2002, 2006 and 2008. They also paid for independent repairs in 2008 and 2009. Based on this, they offered to reimburse the premiums paid in respect of the policy from renewal in 2010 until the point the fridge freezer was removed from cover in 2018.

While historical records of the premiums paid were no longer available, British Gas based their offer on the premium charged for the fridge freezer when it was included in the policy from 2022 (£37.71 for each year of cover, a total of £315.63). They also added interest (at a rate of 8%) for each period (a total of £260.91). They also offered a compensation payment of £200 for inconvenience.

Our investigator considered the complaint and British Gas's offer, which she thought fair. On balance British Gas hadn't acted unfairly in deeming the fridge freezer to be a commercial appliance. She thought it reasonable the offer covered the period from 2010 renewal of the policy as the fridge freezer had been repaired up to 2009, so Mr C benefitted from cover under the policy. And basing their offer on the premium paid from 2022 meant a higher sum than actually charged for the earlier years. Adding interest at 8% was consistent with the approach adopted by this Service. The £200 compensation offered was also fair.

Mr C didn't agree with the investigator's view and requested an ombudsman review the complaint. He didn't agree the fridge freezer was a commercial appliance and British Gas took the appliance off cover against his wishes. As they'd repaired it at various times, it meant they'd accepted it under the policy. As they'd been paying for it to be covered from the outset, the refund of premiums should extend back to 2001 (not 2010). He put the fridge freezer back on cover in 2022 and been paying for that. He'd also had to pay some £6,000 for a new fridge freezer (which he thought they should reimburse at least half) as well as for repairs to the fridge freezer in the period British Gas removed it from cover (2020 and 2021) which he also thought they should reimburse. British Gas should also reimburse the cost of the food in the freezer he said was spoilt when the engineer turned the fridge back on.

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

My role here is to decide whether British Gas have acted fairly towards Mr C.

Looking at the complaint, the key issue is whether Mr C's fridge freezer should have been covered under the policy. Mr C says he paid premiums for the fridge freezer from 2001 until 2018, when British Gas said they wouldn't cover what they considered to be a commercial appliance. Mr C added the fridge freezer back onto his policy when he took out a new policy in 2022 (after his previous policy lapsed). Mr C wants these premiums (the portion applicable to the fridge freezer) refunded. He also wants a contribution towards the cost of his replacement fridge freezer and repair costs he incurred in 2020 and 2021.

British Gas say the fridge freezer was a commercial appliance and so shouldn't be covered under the terms of the policy. They initially offered a refund of the premium paid for the appliance between 2022 and 2024 (£71.64). During the course of our Service investigating this complaint they also offered to refund premiums (based on the later premiums paid from 2022) for the period 2010 to 2018 (with interest). They've also offered £200 compensation.

The first issue I've considered is whether it was fair and reasonable for British Gas to deem the fridge freezer a commercial appliance. British Gas say their policy doesn't cover these appliances. Looking at the policy terms and conditions, under the *Kitchen Appliance* section there's a heading *What's not covered* which includes the following statement:

✕ *"Appliance(s) designed for commercial use"*

The question is then whether Mr C's fridge freezer can reasonably be thought to fall within the meaning of this term. Mr C says his fridge freezer isn't a commercial appliance because the brochure shows the appliance in a domestic kitchen setting and it uses a domestic gas supply. He also says a commercial fridge freezer would be two separate units and much larger than his fridge freezer.

Looking at the information and evidence available, including the photographs and brochure provided by Mr C, as well as the opinion of British Gas (and their engineers) I've concluded the fridge freezer can reasonably be considered to fall within the above definition. I think the term 'designed for commercial use' doesn't preclude the appliance being *used* in a domestic setting (which Mr C maintains and is referred to in the brochure). It's the design of the appliance that is the key factor. As well as the opinion of British Gas and their engineers, I've noted the brochure provided by Mr C includes the following statements (with my emphasis):

*"Workflow handles and hinges are built to **commercial** specifications and are guaranteed for life..."*

*"For over 55 years, [manufacturer] has continuously pioneered innovation in **commercial** refrigeration..."*

I've also seen a British Gas final response in 2020 to a complaint from Mr C that refers to the fridge freezer being removed from cover under the policy in 2018. The response noted the fridge freezer wasn't included in the schedule of appliances covered contained in policy renewal documents issued subsequently in 2019 and 2020. And to a subsequent engineer visit in 2020 (when the fridge freezer developed a fault) during which Mr C was informed the fridge freezer was a commercial appliance and wouldn't be covered (as well as being obsolete, so parts weren't available).

The 2020 final response also included referral rights for Mr C to complain to this Service within six months of the response. If not, this Service wouldn't have British Gas's permission to consider any complaint (unless this Service considered there to be exceptional circumstances). I'm not aware any such complaint was brought by Mr C to this Service within six months of the response (or any exceptional circumstances).

While this means I can't consider the outcome of the 2020 complaint, the points I've set out above lead me to conclude it was fair and reasonable of British Gas to deem Mr C's fridge freezer in 2024 to be excluded under the terms of the policy. So, it wouldn't be covered.

In their 2024 final response, British Gas offered to refund that portion of the policy premiums applicable to the fridge freezer between 2022 and 2024. In the circumstances where the appliance was reasonably excluded from cover – having already been excluded in 2018 – I think the offer is fair and reasonable and I won't be asking them to take any further action in respect of this period.

Turning to the period up to 2018, when the fridge freezer was first excluded from cover, British Gas have offered to refund premiums for the policy period from 2010 to when the appliance was removed in 2018. They argue they carried out repairs to the fridge freezer (or paid independent repairers to carry out repairs) at various points up to 2009. That being the

case, even though the fridge freezer shouldn't reasonably have been covered because of the exclusion, Mr C benefitted from those repairs being carried out (in exchange for the premiums he would have paid during the period (2001 to 2009).

Arguably, the fridge freezer continued to be covered after 2009 up until 2018 and had repairs been necessary in this period, it's likely the policy would have covered them (in the same way they were covered between 2003 and 2009). However, as British Gas have offered to refund the premiums from 2010 to 2018 (when no repairs appear to have been necessary) then I've concluded it's a fair and reasonable offer.

Records of actual premiums paid for the fridge freezer during this period not being available (or readily available) then I think it's reasonable to base their offer on the premiums for the fridge freezer actually paid from 2003. As these are likely to have been higher than the premiums for earlier years, I think that's fair. I also think it's fair to add interest, at a rate of 8%, on these figures. That is consistent with the approach of this Service when making interest awards.

So, I've concluded British Gas acted fairly towards Mr C in offering to refund premiums totalling £315.63 and interest of £260.91. I won't be asking them to increase this offer.

This would be in addition to the £ refunded £71.64, being the cost of cover for the fridge freezer for the policy years 2022-23 and 2023-24 (if they haven't already paid it).

I've also considered the issue of compensation. Taking account of the circumstances of this case and our Service's published guidelines on awards for distress and inconvenience I think £200 is fair and reasonable, so I won't be asking British Gas to make a further award.

In terms of the other points raised by Mr C, as I've concluded it was fair for British Gas to exclude his fridge freezer from cover, then it wouldn't be reasonable to ask them to reimburse (or contribute towards) the cost of his replacement freezer. Similarly, it wouldn't be reasonable to ask British Gas to cover the cost of repairs to the fridge freezer in the period between 2018 and 2022 when it was first excluded from cover.

On the specific issue of compensation for the loss of frozen food when Mr C says the engineer turned on the fridge section, this would be something for his home insurance policy. I've not seen any evidence beyond Mr C's assertion to show British Gas could reasonably be held responsible for any such loss.

My final decision

For the reasons set out above, my final decision is that I uphold Mr C's complaint in part. I require British Gas Insurance Limited to:

- Pay Mr C £71.64, being the cost of cover for the fridge freezer for the policy years 2022-23 and 2023-24 (if they haven't already done so).
- Pay Mr C the £315.63 in respect of premiums paid for the fridge freezer under the policy between 2010 and 2018, together with interest of £260.91 (if they haven't already done so).
- Pay Mr C £200 for distress and inconvenience (if they haven't already done so).

British Gas Insurance Limited must pay the settlement offer and compensation within 28 days of the date on which we tell them Mr C accepts my final decision. If they pay later than this they must also pay interest on the settlement offer and compensation from the date of my final decision to the date of payment at 8% a year simple.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 3 September 2024.

Paul King
Ombudsman